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EXAMINER	
TORRES, JUAN A	

ART UNIT	PAPER NUMBER
2611	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/759,634	MONROE ET AL.	
	Examiner	Art Unit	
	JUAN A. TORRES	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 January 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *23-44,46-55 and 62-64* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *23-44,46-55 and 62-64* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

The modifications to the claims were received on 01/14/2009. These modifications are accepted by the Examiner.

In view of the amendment filed on 01/14/2009, the Examiner withdraws claims objections to claims 23-31, 50-55 and 63-64 of the previous Office action.

Claim Rejections - 35 USC § 101

The modifications to the claims were received on 01/14/2009. These modifications are accepted by the Examiner.

In view of the amendment filed on 01/14/2009, the Examiner withdraws claim rejections under 35 USC § 101 to claims 32-40, 41-44, 46-49 and 62 of the previous Office action.

Terminal Disclaimer

The terminal disclaimer filed on 01/22/2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US 6697421 has been reviewed and is NOT accepted.

The terminal disclaimer does not comply with 37 CFR 1.321(b) and/or (c) because:

An attorney or agent, not of record, is not authorized to sign a terminal disclaimer in the capacity as an attorney or agent acting in a representative capacity as provided by 37 CFR 1.34 (a). See 37 CFR 1.321(b) and/or (c).

It would be acceptable for a person, other than a recognized officer, to sign a terminal disclaimer, provided the record for the application includes a statement that the person is empowered to sign terminal disclaimers and/or act on behalf of the organization.

Accordingly, a new terminal disclaimer which includes the above empowerment statement will be considered to be signed by an appropriate official of the assignee. A separately filed paper referencing the previously filed terminal disclaimer and containing a proper empowerment statement would also be acceptable.

Response to Arguments

Applicant's arguments with respect to claims 23, 32, 41 and 50 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 23-35 and 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (AAPA) (using Fennell (US 5418524 A) for inherency) in view of Collesei ("Short message service based applications in the GSM network", 5th IEEE International Symposium on Personal, Indoor and Mobile Radio Communications, 1994. Wireless Networks - Catching the Mobile Future, Volume 3, 18-

23 Sep 1994 Page(s):939 - 943 vol.3) and further in view of PCCA standard STD-101 Annex f "Data Transmission Systems and Equipment - Serial Asynchronous Automatic Dialing and Control for Character Mode DCE on Wireless Data Services -Annex F: Miscellaneous Commands", PCCA, October 1994, pages 1-10).

Regarding claim 23, AAPA a processor (figure 1 block 108 inherently includes a processor, see figure 7 block 708; paragraphs [0006], [0007] and [0036]. See also Fennell (US 5418524 A) figure 1 for inherency); at least one memory coupled to the processor, the at least one memory including instructions to cause the processor to implement a wireless protocol (figure 1 block 108 inherently includes a memory, see figure 7 block 708; paragraphs [0006], [0007] and [0036]. See also Fennell (US 5418524 A) figure 1 for inherency); a RF transceiver coupled to the processor (figure 1 block 108 inherently includes a transceiver, see figure 7 block 708; paragraphs [0006], [0007] and [0036]. See also Fennell (US 5418524 A) figure 1 for inherency); and an interface coupled to the processor, the interface to receive signals from equipment (figure 1 block 108 inherently includes a processor, see figure 7 block 708; paragraphs [0006], [0007] and [0036]. See also Fennell (US 5418524 A) figure 1 for inherency); wherein the processor is to process the signals received from the equipment (figure 1 block 108 inherently includes a processor, see figure 7 block 708; paragraphs [0006], [0007] and [0036]. See also Fennell (US 5418524 A) figure 1 for inherency); wherein the processor is further to process one or more short message service messages received through the RF transceiver from a wireless network (figure 1 block 108 inherently includes a processor, see figure 7 block 708; paragraphs [0006], [0007] and [0036], see

also Fennell (US 5418524 A) figure 1 for inherency); and wherein the equipment is selected from a utility meter, a meter concentration point, a utility meter control system, substation monitor, telemetry equipment, a vending machine, and a computer (figure 1 block 104 paragraphs [0006], [0007] and [0036]. See also Fennell (US 5418524 A). AAPA doesn't disclose that the MSM includes modem management information to allow at least one of remote initialization and remote control of the equipment. Collesei discloses using message service messages received through the RF transceiver from a wireless network including managing information to allow at least one of remote initialization and remote control of the equipment where wherein the equipment is selected from a utility meter, a meter concentration point, a utility meter control system, substation monitor, telemetry equipment, a vending machine, and a computer (section III page 942 right column and page 943 left column). AAPA and Collesei are analogous art because they are from the same field of endeavor of wireless communications. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate in the SMS messages disclosed by AAPA the SMS management information disclosed by Collesei. The suggestion/motivation for doing so would have been to control the wireless modem remotely using a wireless connection and add security (section III page 942 right column and page 943 left column). STD-101 also discloses in the annex f managing information to allow at least one of initialization and control of the equipment where the modem management message includes program code that can execute on a wireless modem using AT command for wireless modems (pages 1-10). AAPA, Collesei and STD-101 are analogous art because they are from

the same field of endeavor of wireless communications. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate in the SMS messages disclosed by AAPA and Collesei the management information disclosed by STD-101. The suggestion/motivation for doing so would have been to control the wireless modem remotely using a wireless connection (Collesei section III page 942 right column and page 943 left column).

Regarding claim 24, AAPA, Collesei and STD-101 disclose claim 23, STD-101 also discloses wireless modem configuration parameters (pages 1-10).

Regarding claim 25, AAPA, Collesei and STD-101 disclose claim 23, STD-101 also discloses a command for wireless modem to perform a function stored internally to the wireless modem (pages 1-10).

Regarding claim 26, AAPA, Collesei and STD-101 disclose claim 23, Collesei also discloses the processor processes the one or more short message service messages received through the RF transceiver by parsing data from the one or more of the short message service messages, testing the parsed data for a modem management command indictor, and processing the short message service message when the modem management command indictor is detected (section III page 942 right column and page 943 left column).

Regarding claim 27, AAPA, Collesei and STD-101 disclose claim 23, and AAPA also discloses a global system for mobile communications protocol (paragraphs [0004]-[0007].

Regarding claim 28, AAPA, Collesei and STD-101 disclose claim 23, Collesei also discloses a general packet radio services protocol (page 939 right column).

Regarding claim 29, AAPA, Collesei and STD-101 disclose claim 23, AAPA also discloses memory holds modem software to allow the processor to handle the one or more short message service messages (figure 1 block 108 inherently includes a memory, see figure 7 block 708; paragraphs [0006], [0007] and [0036]. See also Fennell (US 5418524 A) figure 1 for inherency). Collesei also discloses that the SMS including the modem information received through the RF transceiver (section III page 942 right column and page 943 left column). STD-101 also discloses in the annex f managing information where the modem management message includes program code that can execute on a wireless modem using AT command for wireless modems (pages 1-10).

Regarding claim 30, AAPA and STD-101 disclose claim 23, AAPA also discloses that the user equipment is external to the device (figure 1 block 104 paragraphs [0006], [0007]).

Regarding claim 31, AAPA and STD-101 disclose claim 23, AAPA also discloses a receptacle to receive a line coupled to the user equipment (figure 1 block 106 paragraphs [0006], [0007]).

Regarding claim 32 AAPA discloses receiving a short message service message at a RF transceiver of a wireless modem from a wireless network, wherein the wireless modem comprises the RF transceiver, a processor coupled with the RF transceiver, a non-volatile memory coupled with the processor, a volatile memory coupled with the processor, and a wireless protocol stack means (figure 1 block 110 paragraphs [0006],

[0007], See also Fennell (US 5418524 A) figure 1 for inherency), receiving a short message service message at a RF transceiver of a wireless modem from a wireless network (figure 1 block 110 paragraphs [0006], [0007]); examining the short message service message (figure 1 block 108 paragraphs [0006], [0007]); and wherein the equipment is selected from a utility meter, a meter concentration point, a utility meter control system, substation monitor, telemetry equipment, a vending machine, and a computer (figure 1 block 104 paragraphs [0006], [0007] and [0036]. See also Fennell (US 5418524 A). AAPA doesn't disclose examining the short message service message for modem management information with the wireless protocol stack means and the processor; and processing the short message service message at the wireless modem with the wireless protocol stack means and the processor when the short message service message includes the modem management information, wherein said processing the short message service message comprises the wireless modem performing at least one of remote initialization and remote control of equipment that is coupled with the wireless modem, wherein the equipment is selected from a utility meter, a meter concentration point, a utility meter control system, a substation monitor, telemetry equipment, a vending machine, and a computer. Collesei specifically discloses examining the short message service message for modem management information with the wireless protocol stack means and the processor (section III page 942 right column and page 943 left column); and processing the short message service message at the wireless modem with the wireless protocol stack means and the processor when the short message service message includes the modem management

information, wherein said processing the short message service message comprises the wireless modem performing at least one of remote initialization and remote control of equipment that is coupled with the wireless modem, wherein the equipment is selected from a utility meter, a meter concentration point, a utility meter control system, a substation monitor, telemetry equipment, a vending machine, and a computer (section III page 942 right column and page 943 left column). AAPA and Collesei are analogous art because they are from the same field of endeavor of wireless communications. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate in the SMS messages disclosed by AAPA the SMS management information disclosed by Collesei. The suggestion/motivation for doing so would have been to control the wireless modem remotely using a wireless connection and add security (section III page 942 right column and page 943 left column). STD-101 also discloses in the annex f managing information to allow at least one of initialization and control of the equipment where the modem management message includes program code that can execute on a wireless modem using AT command for wireless modems (pages 1-10). AAPA, Collesei and STD-101 are analogous art because they are from the same field of endeavor of wireless communications. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate in the SMS messages disclosed by AAPA and Collesei the management information disclosed by STD-101. The suggestion/motivation for doing so would have been to control the wireless modem remotely using a wireless connection (Collesei section III page 942 right column and page 943 left column).

Regarding claim 33, AAPA, Collesei and STD-101 disclose claim 32, At the time of the invention it would be obvious to one of ordinary skill in the art parsing the short message service message (Collesei section III page 942 right column and page 943 left column) and testing the parsed short message service message for a modern management command indicator, the command indicator indicating whether the short message service message includes the modem management information so the command is passed directly to the modem, because the information is directly for the modem (Collesei section III page 942 right column and page 943 left column).

Regarding claim 34, AAPA, Collesei and STD-101 disclose claim 32. STD-101 also discloses initializing the wireless modem based upon the modem management information (pages 1-10).

Regarding claim 35, AAPA and STD-101 disclose claim 32, STD-101 also discloses checking a quality of a wireless signal detected at the wireless modem (page 4 section 4.1.4).

Regarding claim 37, AAPA, Collesei and STD-101 disclose claim 32, AAPA also discloses selecting a RF Channel for wireless communications on the wireless modem (paragraphs [0004]-[0007]. The GSM inherently discloses the use of an RF channel).

Regarding claims 38, AAPA, Collesei and STD-101 disclose claim 32, AAPA also discloses authenticating a party sending short message service messages to the wireless modem (paragraphs [0006]-[0007]. The GSM SMS inherently discloses the party authenticating).

Regarding claim 39, AAPA, Collesei and STD-101 disclose claim 32, STD-101 also discloses initializing communication parameters for event detection and notification (pages 1-10. AT commands are commands for even detection and notification).

Regarding claim 40, AAPA, Collesei and STD-101 disclose claim 32 AAPA also discloses a global system for mobile communications protocol (paragraphs [0004]-[0007].

Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA, Collesei and STD-101 as applied to claim 23 above, and further in view of NTT ("Proposal for external interface",SMG4/TSG-CN3/TSG-T2 London, 15-19 March 1999).

Regarding claim 63, AAPA, Collesei and STD-101 disclose claim 23. AAPA, Collsei and STD-101 don't specifically disclose a request for a call log history. NTT discloses a request for a call log history (page 21 No. 81). AAPA, STD-101 and NTT are analogous art because they are from the same field of endeavor of wireless modem. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate in the SMS messages disclosed by AAPA and STD-101 the call log disclosed by NTT. The suggestion/motivation for doing so would have been to obtain the log of the calls.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA, Collesei and STD-101 as applied to claims 32 and 41 above, and further in view of NTT ("Proposal for external interface",SMG4/TSG-CN3/TSG-T2 London, 15-19 March 1999).

Regarding claim 36, AAPA, Collesie and STD-101 disclose claim 32. AAPA and STD-101 don't specifically disclose a request for a call log history. NTT discloses a

request for a call log history (page 21 No. 81). AAPA, STD-101 and NTT are analogous art because they are from the same field of endeavor of wireless modem. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate in the SMS messages disclosed by AAPA and STD-101 the call log disclosed by NTT. The suggestion/motivation for doing so would have been to obtain the log of the calls.

Claims 41-44, 46-55, 62 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (AAPA) (using Fennell (US 5418524 A) for inherency) In view of Collesei ("Short message service based applications in the GSM network", 5th IEEE International Symposium on Personal, Indoor and Mobile Radio Communications, 1994. Wireless Networks - Catching the Mobile Future, Volume 3, 18-23 Sep 1994 Page(s):939 - 943 vol.3) and further in view of PCCA standard STD-101 Annex f "Data Transmission Systems and Equipment - Serial Asynchronous Automatic Dialing and Control for Character Mode DCE on Wireless Data Services -Annex F: Miscellaneous Commands", PCCA, October 1994, pages 1-10), view of PCCA standard STD-101 Annex f "Data Transmission Systems and Equipment - Serial Asynchronous Automatic Dialing and Control for Character Mode DCE on Wireless Data Services - Annex F: Miscellaneous Commands", PCCA, October 1994, pages 1-10) and further in view of NTT ("Proposal for external interface",SMG4/TSG-CN3/TSG-T2 London, 15-19 March 1999).

Regarding claim 41 AAPA discloses a processor (figure 1 block 108 inherently includes a processor, see figure 7 block 708; paragraphs [0006], [0007] and [0036]. See

also Fennell (US 5418524 A) figure 1 for inherency); a storage medium coupled to the processor, the storage medium including a software including instructions to cause the processor to implement a wireless protocol (figure 1 block 108 inherently includes a memory, see figure 7 block 708; paragraphs [0006], [0007] and [0036]. See also Fennell (US 5418524 A) figure 1 for inherency), AAPA doesn't specifically disclose examine a short message service message that is received at a RF receiver of a wireless modem from a wireless network for modem management information; process the short message service message at the wireless modem when the short message service message includes the modem management information, including handling a request for a call history log; and pass the short message service message through the wireless modem when the short message service message does not include the modem management information. Collesei discloses examine a short message service message that is received at a RF receiver of a wireless modem from a wireless network for modem management information (Collesei section III page 942 right column and page 943 left column); process the short message service message at the wireless modem when the short message service message includes the modem management information (section III page 942 right column and page 943 left column) and pass the short message service message through the wireless modem when the short message service message does not include the modem management information (section III page 942 right column and page 943 left column). AAPA and Collesei are analogous art because they are from the same field of endeavor of wireless communications. At the time of the invention, it would have been obvious to a person of ordinary skill in the art

to incorporate in the SMS messages disclosed by AAPA the SMS management information disclosed by Collesei. The suggestion/motivation for doing so would have been to control the wireless modem remotely using a wireless connection and add security (section III page 942 right column and page 943 left column). STD-101 also discloses in the annex f managing information to allow at least one of initialization and control of the equipment where the modem management message includes program code that can execute on a wireless modem using AT command for wireless modems (pages 1-10). AAPA, Collesei and STD-101 are analogous art because they are from the same field of endeavor of wireless communications. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate in the SMS messages disclosed by AAPA and Collesei the management information disclosed by STD-101. The suggestion/motivation for doing so would have been to control the wireless modem remotely using a wireless connection (Collesei section III page 942 right column and page 943 left column). NTT discloses a request for a call history log (page 21 No. 81). AAPA, Collesei, STD-101 and NTT are analogous art because they are from the same field of endeavor of wireless communications. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate in the SMS messages disclosed by AAPA, Collesei and STD-101 the call log disclosed by NTT. The suggestion/motivation for doing so would have been to obtain the log of the calls.

Regarding claim 42, AAPA, Collesei, STD-101 and NTT disclose claim 41. At the time of the invention it would be obvious to one of ordinary skill in the art parsing the

short message service message (Collesei section III page 942 right column and page 943 left column) and testing the parsed short message service message for a modern management command indicator, the command indicator indicating whether the short message service message includes the modem management information so the command is passed directly to the modem, because the information is directly for the modem (Collesei section III page 942 right column and page 943 left column).

Regarding claim 43, AAPA, Collesei, STD-101 and NTT disclose claim 41. STD-101 also discloses initializing the wireless modem based upon the modem management information (pages 1-10).

Regarding claim 44, AAPA, Collesei, STD-101 and NTT disclose claim 41 STD-101 also discloses checking a quality of a wireless signal detected at the wireless modem (page 4 section 4.1.4).

Regarding claim 46, AAPA, Collesei, STD-101 and NTT disclose claim 41 AAPA also discloses selecting a RF Channel for wireless communications on the wireless modem (paragraphs [0004]-[0007]. The GSM inherently discloses the use of an RF channel).

Regarding claim 47, AAPA, Collesei, STD-101 and NTT disclose claim 41 AAPA also discloses authenticating a party sending short message service messages to the wireless modem (paragraphs [0006]-[0007]. The GSM SMS inherently discloses the party authenticating).

Regarding claim 48, AAPA, Collesei, STD-101 and NTT disclose claim 41 STD-101 also discloses initializing communication parameters for event detection and

notification (pages 1-10. AT commands are commands for even detection and notification).

Regarding claim 49, AAPA, Collesei, STD-101 and NTT disclose claim 41 AAPA also discloses a global system for mobile communications protocol (paragraphs [0004]-[0007]).

Regarding claim 62, AAPA, Collesei, STD-101 and NTT disclose claim 41. AAPA also discloses a memory (figure 1 block 108 inherently includes a memory, see figure 7 block 708; paragraphs [0006], [0007] and [0036]. See also Fennell (US 5418524 A) figure 1 for inherency).

Regarding claim 50 AAPA discloses a processor (figure 1 block 108 inherently includes a processor, see figure 7 block 708; paragraphs [0006], [0007] and [0036]. See also Fennell (US 5418524 A) figure 1 for inherency); a memory coupled to the processor, the memory including a software including instructions to cause the processor to implement a wireless protocol (figure 1 block 108 inherently includes a memory, see figure 7 block 708; paragraphs [0006], [0007] and [0036]. See also Fennell (US 5418524 A) figure 1 for inherency); a RF transceiver coupled to the processor (figure 1 block 108 inherently includes a transceiver, see figure 7 block 708; paragraphs [0006], [0007] and [0036]. See also Fennell (US 5418524 A) figure 1 for inherency); and an interface coupled to the processor, the interface to receive signals from equipment (figure 1 block 108 inherently includes a processor, see figure 7 block 708; paragraphs [0006], [0007] and [0036]. See also Fennell (US 5418524 A) figure 1 for inherency); and wherein the processor is further to process one or more short message service

messages received through the RF transceiver from a wireless network (figure 1 block 108 inherently includes a processor, see figure 7 block 708; paragraphs [0006], [0007] and [0036], see also Fennell (US 5418524 A) figure 1 for inherency). AAPA doesn't disclose modem management information and don't specifically disclose a request for a call log history and a request for a call history log. Collesei discloses examine a short message service message that is received at a RF receiver of a wireless modem from a wireless network for modem management information (Collesei section III page 942 right column and page 943 left column);. AAPA and Collesei are analogous art because they are from the same field of endeavor of wireless communications. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate in the SMS messages disclosed by AAPA the SMS management information disclosed by Collesei. The suggestion/motivation for doing so would have been to control the wireless modem remotely using a wireless connection and add security (section III page 942 right column and page 943 left column). STD-101 also discloses in the annex f managing information to allow at least one of initialization and control of the equipment where the modem management message includes program code that can execute on a wireless modem using AT command for wireless modems (pages 1-10). AAPA, Collesei and STD-101 are analogous art because they are from the same field of endeavor of wireless communications. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate in the SMS messages disclosed by AAPA and Collesei the management information disclosed by STD-101. The suggestion/motivation for doing so would have been to control the

wireless modem remotely using a wireless connection (Collesei section III page 942 right column and page 943 left column). NTT discloses a request for a call history log (page 21 No. 81). AAPA, Collesei, STD-101 and NTT are analogous art because they are from the same field of endeavor of wireless communications. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate in the SMS messages disclosed by AAPA, Collesei and STD-101 the call log disclosed by NTT. The suggestion/motivation for doing so would have been to obtain the log of the calls.

Regarding claim 51, AAPA, Collesei, STD-101 and NTT disclose claim 50, STD-101 also discloses wireless modem configuration parameters (pages 1-10).

Regarding claim 52, AAPA, Collesei, STD-101 and NTT disclose claim 50, STD-101 also discloses a command for wireless modem to perform a function stored internally to the wireless modem (pages 1-10).

Regarding claim 53, AAPA, Collesei, STD-101 and NTT disclose claim 50, AAPA also discloses that processor processes the one or more short message service messages received through the RF transceiver by parsing data from the one or more of the short message service messages (figure 1 block 108 inherently includes a processor, see figure 7 block 708; paragraphs [0006], [0007] and [0036], see also Fennell (US 5418524 A) figure 1 for inherency). At the time of the invention it would be obvious to one of ordinary skill in the art to include an indicator in the SMS to indicate that and AT command is being sent to the modem so the command is passed directly to the modem, because the information is directly for the modem. To send the command

to the laptop and back to the modem will increase the complexity of the system, at least will be obvious to try to access the data directly to the modem.

Regarding claim 54, AAPA, Collesei, STD-101 and NTT disclose claim 50, and AAPA also discloses a global system for mobile communications protocol (paragraphs [0004]-[0007]).

Regarding claim 55, AAPA, Collesei, STD-101 and NTT disclose claim 50, Collesei also discloses a general packet radio services protocol (page 939 right column).

Regarding claim 64, AAPA, Collesei, STD-101 and NTT disclose claim 50. STD-101 also discloses in the annex f managing information to allow at least one of remote initialization and remote control of the equipment where the modem management message includes program code that can execute on a wireless modem using AT command for wireless modems (pages 1-10).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to

be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 23-44, 46-55 and 62-64 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6, 1, 1, 1, 7-14, 5, 15, 11, 16-18, 20-22, 5, 11, 2-61, 5 and 11 respectively of U.S. Patent No. US 6697421 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims 23-44, 46-55 and 62-64 of the present application are anticipated by claims 1-6, 1, 1, 1, 7-14, 5, 15, 11, 16-18, 20-22, 5, 11, 2-61, 5 and 11 respectively of U.S. Patent No. US 6697421 B1.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUAN A. TORRES whose telephone number is (571)272-3119. The examiner can normally be reached on 8-6 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on 571-272-3021. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Juan Alberto Torres
03/16/2009

/Juan A Torres/
Primary Examiner, Art Unit 2611